

FEB 28 2005

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	CAUSE NO.: A-1605
DEPARTMENT OF INSURANCE,)	
)	
PETITIONER,)	
)	FINDINGS OF FACT,
vs.)	CONCLUSIONS OF LAW,
)	RECOMMENDED ORDER AND
STEVE F. JANSEN,)	ORDER
)	
RESPONDENT.)	

This matter came on for hearing on the 24th day of February, 2005, before Christine M. Neighbors, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Keri Schechinger. Steve F. Jansen ("Respondent") was present, but was not represented by counsel for this matter. The Rules of Evidence were not requested and the hearing was governed accordingly. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was introduced and the matter taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed Nebraska insurance producer whose current registered address with the Department is 89046 537th Avenue, Fordyce, NE 68736.
2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
3. On or about January 19, 2005, the Amended Petition and Notice of Hearing were served upon Respondent by facsimile and by mailing to his address of

record by certified mail, return receipt requested. On or about February 7, 2005, Respondent received the Amended Petition and Notice of Hearing as evidenced by the attachment to Exhibit 1.

4. Petitioner dismissed the allegations in Paragraph 5 in its entirety, Paragraph 6 (a) and Paragraph 7 (a) from the Amended Petition prior to hearing. The allegations in Paragraph 6 (b-e) and Paragraph 7 (b-d) remain.

5. On or about October 20, 2004, the Department sent a letter to Respondent via certified mail regarding consumer complaint file number 04-1626. (Ex. 5). Respondent received said letter on October 26, 2004. (Ex. 5). Respondent provided a response to the Department's letter on December 7, 2004. (Ex. 5). The hearing officer finds that Respondent failed to respond to the Department's inquiry within fifteen (15) working days as required pursuant to *Neb. Rev. Stat. §44-1525 (11)*.

6. On or about October 27, 2004, the Department sent a letter to Respondent via certified mail regarding consumer complaint file number 04-1651. (Ex. 5). Respondent received said letter on October 28, 2004. (Ex. 5). Respondent did not respond to the Department's inquiry as of December 8, 2004. (Ex. 4).

7. Respondent offered, as Exhibit 8, a copy of a letter he testified was sent to the Department in response to the letter he received regarding 04-1651. However, Exhibit 8 is not dated, not signed by Respondent, does not indicate the questions to which Respondent replied, and there is no proof of mailing. Thus, the hearing officer finds that Respondent failed to respond to the Department's inquiry within fifteen (15) working days as required pursuant to *Neb. Rev. Stat. §44-1525 (11)*.

8. Respondent offered Exhibits 6, 7 and 9 as proof that he responded to Department inquiries. Exhibit 6 is written communication dated 9-30-04 yet does not

include a file reference number, is not signed by Respondent, does not indicate the questions to which Respondent replied, and does not include a proof of mailing. Exhibit 7 is written correspondence signed by Respondent but is not dated, does not include a file reference number, does not indicate the question to which Respondent replied, and does not include a proof of mailing. Exhibit 9 is a copy of three certified mail receipts showing a mailing on May 4, 2004 and June 10, 2004 with a signed certified receipt dated June 14, 2004. The May 4, 2004 receipt appears to relate to a previous administrative action, A-1577, in which Respondent failed to respond to the Department's inquiries until he did so on May 4, 2004. In general, however, Respondent could not explain which correspondence correlates to these receipts and, without dates on the correspondence, the hearing officer cannot rely on Respondent's testimony.

9. Petitioner requested the hearing officer take notice of three prior administrative actions in Cause Numbers A-1521, A-1577, and A-1595. These actions relate to Respondent's failure to respond to Department inquiries in other consumer complaint files. In addition, Respondent was previously fined \$1,000 for three counts of failing to respond and neglected to pay the administrative fine until subsequent administrative action was pursued through the filing of a petition.

10. Respondent has held an insurance producer's license since October 2002 (Ex. 2). Since the license was issued, Respondent has had four administrative actions brought against his license, three of which are as a result of repeated failures to respond to Department inquiries. The hearing officer finds that Respondent's actions are committed not only in conscious and flagrant disregard of the Unfair Trade Practices Act, *Neb. Rev. Stat.* §44-1525 (11) and §44-1524 (1), but also have been committed with such

frequency as to indicate a general business practice to engage in that type of conduct.

See *Neb. Rev. Stat.* §44-1524 (2).

CONCLUSIONS OF LAW


1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to *Neb. Rev. Stat.* §44-4041 *et seq.*
2. The Department has personal jurisdiction over Respondent.
3. Respondent violated *Neb. Rev. Stat.* §44-1525 (11), §44-4059 (1) (b), §44-4059 (1) (g), and §44-4059 (1) (h).

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's insurance producer's license be revoked.

Dated this 28th day of February, 2005.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


Christine Neighbors
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska Department of Insurance v. Steve F. Jansen, Cause No.: A-1605.

Dated this 28th day of February, 2005.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order and Order was served upon the Respondent by mailing a copy to Respondent at 89046 ~~55~~⁵⁷th Avenue, Fordyce, NE 68736 by certified mail, return receipt requested on this 1st day of ~~February~~, 2005.
March

